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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,759	10/30/2003	Joseph Smouha	CL-167	2827
7590	07/01/2005		EXAMINER	
Bernard Malina Malina & Wolson Suite 501 60 East 42nd Street New York, NY 10165			GOODWIN, JEANNE M	
			ART UNIT	PAPER NUMBER
			2841	
			DATE MAILED: 07/01/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/698,759	SMOUHA, JOSEPH	
Examiner	Art Unit		
Jeanne-Marguerite Goodwin	2841		

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 30 October 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-21 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on 30 October 2003 is/are: a)  accepted or b)  objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 5, 6 and 24-26 objected to because of the following informalities:

In claims 5 and 6, "said locking prong" is inconsistent with claim 4, "at least one locking prong";

In claims 24 and 26, line 1 of each, "said sleeve" lacks antecedent basis;

In claims 25 and 26, line 1 of each, "The bangle bracelet" lacks antecedent;

In claim 26, line 2, interengaging is a single word.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 8-12, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 6,378,696 to Smouha.

**As per claim 1**, Smouha discloses a bangle watch box comprising a housing (10) having a wall portion and an outer surface, a cover (2 or 6) mounted on the housing, a wristwatch support collar (28) mounted in the housing, first locking means (interengagement between the collar and the housing) for reversibly locking the collar and the housing, a plurality of bangles (32) each having an aperture with the housing projecting through the apertures, second locking

means (interengagement between the bangles and the housing) for locking the bangles and the housing and third locking means (operated by 14) for locking the cover, bangles and housing.

**As per claim 2,** the collar also comprises a locking member slideably mounted in the housing.

**As per claims 8-10,** each bangle (32) comprises a generally planar member having an aperture (engaging the housing (10)), rounded edge portions (semicircular portions engaging the housing) and rounded corner portions (at free ends of the bangles).

**As per claims 11 and 12,** a raised flange portion encircles the shell (4) of Smouha and serves to lock the housing (10) in place.

**As per claims 14 and 15,** the cover includes a transparent/translucent material (at 12).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smouha.

Smouha discloses a device as stated above with regards to claims 1, 2, 8-12, 14 and 15. Smouha discloses all subject matter claimed by applicant with the exception of the limitation stated in claim 16, i.e., said housing is made of a transparent material; the limitation stated in

claim 17, i.e., said housing is made of a translucent material; the limitation stated in claim 18, i.e., said plurality of bangles are made of a transparent material; the limitation stated in claim 19, i.e., said plurality of bangles are made of a translucent material; the limitation stated in claim 20, i.e., said cover, said housing and said plurality of bangles are made of plastic; and the limitation stated in claim 21, i.e., said cover is generally hemispherical.

**As per claims 16-20**, Smouha illustrates providing a transparent window in the cover (12). The particular type of material used for the housing, plurality of bangles and cover, absent any criticality, are only considered to be the use of “preferred” materials that a person having ordinary skill in the art at the time the invention was made would have find obvious to provide using routine experimentation based, among other things, on the intended use of applicant's apparatus, i.e., suitability for the intended use of applicant's apparatus. See In re Leshin, 125 USPQ 416 (CCPA 1960) where the court stated that a selection of a material on the basis of suitability for the intended use of an apparatus would be entirely obvious. Furthermore, to provide the entire housing and the plurality of bangles of a transparent, translucent material would have been obvious in view of Smouha in order to provide interior viewing of the box from any angle. To vary the from transparency to complete translucent is officially noted to have been well known in the receptacle field to vary the exposure of the contents. To provide the elements of the box entirely from plastic, even transparent or translucent plastic would have been obvious in order to provide interior viewing of the contents from any angle in a relatively inexpensive manner.

**As per claim 21**, Smouha illustrates in Fig. 1 an oblong shape cover. The shape of the cover p, i.e., hemispherical, absent any criticality, is only considered to be an obvious

modification of the shape of the cover disclosed by Smouha as the courts have held that a change in shape or configuration, without any criticality, is within the level of skill in the art as the particular shape claimed by applicant is nothing more than one of numerous shapes that a person having ordinary skill in the art will find obvious to provide using routine experimentation based on its suitability for the intended use of the invention. See In re Dailey, 149 USPQ 47 (CCPA 1976). Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to replace the cover, as taught by Smouha, with the cover, as claimed by Applicant, to make it more aesthetically pleasing and fashionable.

6. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Smouha in view of US Patent 5,579906 to Fabbri et al. [hereinafter Fabbri].

Smouha discloses a device as stated above with regards to claims 1, 2, 8-12, 14 and 15. Smouha discloses all subject matter claimed by applicant with the exception of the limitation stated in claim 3, i.e., said locking member projects through said wristwatch support collar; the limitation stated in claim 4, i.e., said locking member comprises at least one locking prong; the limitation stated in claim 5, i.e., said locking prong is flexible; and the limitation stated in claim 6, i.e., said locking prong engages said housing.

**As per claims 3-6**, Fabbri discloses a collar locking means comprising a locking member (24) slideably mounted in a housing, the locking member having prongs and being flexible. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the

invention was made to add the locking structure, as taught by Fabbri, to the device Smouha, in order to better secure the collar within the housing, as suggested by Fabbri.

7. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Smouha in view of US Patent 4,216,858 to Beachamp.

Smouha discloses a device as stated above with regards to claims 1, 2, 8-12, 14 and 15. Smouha discloses all subject matter claimed by applicant with the exception of the limitation stated in claim 25, i.e., bangle bracelet further comprising tag means with said tag means connected to said cover.

**As per claim 25**, Beachamp discloses a tag (80) disposed in a wristwatch display box. Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to add the tag means, as taught by Beachamp, to the device of Smouha, in order to provide information relative to the contents, as already suggested by Beachamp.

### *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art cited in the PTO-892 disclose related devices. US Pub. 2005/0082180 to Smouha discloses a bangle watch box; and US Patent 6,257,399 and 6,460,695 to Gursky et al. discloses watch display structures.

9. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Jeanne-Marguerite Goodwin whose telephone number is (571)

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272-2104. The examiner can normally be reached on Monday-Friday (9am-6pm), alternate Fridays off. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2861.

JMG  
June 20, 2005



KAMAND CUNEOP  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800